IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1988 OF 1995.

Bapu Tukaram Nakil and others. ... Petitioners.
Versus.
Shivaji Eknath Kulkarni and others. ... Respondents.

Shri S.G.Surana for the Petitioners.
Shri M.R.Katikar for Respondent No.1.

AND

WRIT PETITION NO.2974 OF 1999

Shivaji Eknath Kulkarni and others. ... Petitioners
Versus.
Bapu Tukaram Nakil and others. ... Respondents.

Shri M.R.Katikar for the Petitioners.
Shri S.G.Surana for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 4th June, 2007.

P.C.:

1. The Petitioners in Writ Petition No.1988 of 2005 are the original Plaintiffs and the Respondents are the original Defendants. The application for temporary injunction taken out by the Petitioners at Exh.9 was rejected by the trial Court and the Application at Exh.25 filed by the 1st and 2nd Respondents was allowed by the trial Court. The Petitioners challenged the said order by preferring a Miscellaneous Civil Appeal No.190 of 1991. The said Appeal was dismissed by Judgment and order dated 15th September 1994. Writ Petition No.1988 of 1995 has been preferred for challenging the said Judgment and Order.

2. In the meanwhile during the pendency of the aforesaid petition, the trial Court dismissed the suit filed by the Petitioners and decreed the counterclaim filed by the 1st and 2nd Respondents. The Petitioners preferred a Regular Appeal against the said judgment and decree. In the said Appeal, on 19th June 1998 an interim order was passed by the Appellate Court. The 1st and 2nd Respondents in Writ Petition No.1988 of 1995 have challenged the said interim order passed in Appeal preferred Writ Petition No.2974 of 1999.

3. As a result of the disposal of the suit, Writ Petition No.1988 of 1995 does not survive.

4. Insofar as Writ Petition No.2974 of 1999 is concerned, this Court has issued Rule and granted interim relief in terms of prayer clauses (c) and (d). The said relief is in operation from 14th September 1999.

5. The Appeal being of the year 1997, in all probability the same must have been disposed of. However, the learned Advocates appearing for the parties have no instructions in that behalf. If the Appeal is not disposed of as of today, the same will have to be disposed of expeditiously.

6. Hence the following order is passed:

(i) Writ Petition No.1988 of 1995 is rejected as infructuous.

(ii) Writ Petition No.2974 of 1999 is disposed of by directing the Appellate Court to decide Regular Civil Appeal No.581 of 1997 as expeditiously as possible and preferably within a period of four months from today. Interim relief granted by this Court on 14th September 1999 will continue to operate till disposal of the Appeal.

(iii) If the Civil Appeal No.581 of 1990 is already disposed of, the aforesaid direction will not apply.

(iv) There will be no order as to costs.

Judge.